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12 GRASSHOPPER HOUSE, LLC,  
13 PASSAGES SILVER STRAND, LLC,  
14 CHRIS PRENTISS and PAX PRENTISS

15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

17 GRASSHOPPER HOUSE, LLC, d/b/a  
18 PASSAGES MALIBU, a California  
19 limited liability company, PASSAGES  
20 SILVER STRAND, LLC, a California  
21 limited liability company,

22 Plaintiffs

23 v.

24 RENAISSANCE RECOVERY  
25 SERVICES, LLC, a California limited  
26 liability company; NNB RECOVERY  
27 SERVICES, LLC, a California limited  
28 liability company; and SALVATORE  
PETRUCCI, an individual,

Defendants.

AND RELATED COUNTER-CLAIM

Case No.: CV 10-3198 DMG (JCx)

(Assigned to Hon. Dolly M. Gee,  
Courtroom 7)

**DECLARATION OF  
CHARLES J. HARDER  
IN SUPPORT OF COUNTER-  
DEFENDANTS' *EX PARTE*  
APPLICATION TO ENJOIN  
OPPOSING COUNSEL'S  
UNETHICAL AND UNLAWFUL  
CONDUCT, DISQUALIFY  
OPPOSING COUNSEL FROM THE  
CASE, AND IMPOSE ADDITIONAL  
APPROPRIATE RELIEF; OR  
ALTERNATIVELY, FOR AN ORDER  
SHORTENING TIME TO HEAR  
THIS APPLICATION**

Hearing Date: TBD  
Time: TBD  
Location: Courtroom 7

Complaint Filed: April 28, 2010  
Discovery Cutoff: May 31, 2011  
Pretrial Conference: September 6, 2011  
Trial: October 4, 2011

1 I, Charles J. Harder, declare:

2 1. I am an attorney at law duly admitted to practice before the United States  
3 District Court for the Central District of California. I am a partner of the law firm of  
4 Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, attorneys of record for plaintiffs and  
5 counter-defendants GRASSHOPPER HOUSE, LLC and PASSAGES SILVER  
6 STRAND, LLC (collectively, "Passages"). I have personal knowledge of the  
7 following facts, and if called and sworn as a witness, I could and would testify  
8 competently thereto.

9 2. As an officer of this Court, I take very seriously the matters set forth in  
10 this *ex parte* application. My clients take these matters very seriously as well. In my  
11 nearly fifteen years of practicing law, I have never had an occasion to file an  
12 application or motion of this type, and hope that I never have to again. Over the past  
13 year, I made every effort to tolerate and ignore the unprofessional and unethical  
14 conduct of counsel discussed herein. However, the events of the past three weeks,  
15 described herein, have left my clients and me with no alternative but bring these  
16 matters to the immediate attention of the Court, and to seek appropriate relief.

17 3. Attached hereto as **Exhibit A** is a true and correct copy of an email that I  
18 received on February 10, 2011 at 5:56 p.m. from James E. Doroshow ("Doroshow"),  
19 counsel of record for Counter-Claimants Renaissance Recovery Services, LLC, NNB  
20 Recovery Services, LLC, and Salvatore Petrucci (collectively, "Renaissance" or  
21 "Counter-Claimants"). The email copied d his partner, Aaron Craig, and another  
22 person at their firm named Carl Enockson. The email states, in its entirety:

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1 Mr harder,

2 If our litigation is not settled next tuesday at the mediation,  
3 please advise your client that all bets are off. Among other  
4 activities, I am planning on going to both the press and  
5 federal trade commission with the information we have  
6 acquired in connection with our false advertising claims.

7 My clients and I will no longer keep this shameful record of  
8 deceit under wraps.

9 Jim doroshow.

10 4. Renaissance and Doroshow made certain demands during the February  
11 15, 2011 mediation, which I will not discuss here because of the presumed mediation  
12 privilege. Needless to say, the case did not settle that day, and the mediation was  
13 terminated at approximately 12:30 p.m.

14 5. On February 25, 2011, at approximately 12:15 p.m., Doroshow placed a  
15 telephone call to me. During the call Doroshow told me that he had not yet gone to  
16 the press or the FTC with information about Passages, and that if Passages paid  
17 Renaissance a specific six-figure sum as a "settlement," then he would not take the  
18 information about Passages to the press or the FTC. He did not specify the  
19 information about Passages that he was threatening to take to the press and the FTC.

20 6. The continuing nature of these threats, and escalation of Doroshow's  
21 wrongful conduct, and the impact that they are having on the litigation and Passages'  
22 ability to defend itself against the Counterclaims filed by Renaissance, warrants the  
23 filing of this application on an *ex parte* basis. This is an emergency situation that  
24 requires the immediate attention of the Court, and a timely resolution, to ensure that  
25 Passages can receive a full and fair hearing on Renaissance's Counterclaims.  
26 Moreover, Doroshow's conduct, as described throughout this Declaration, has  
27 significantly interfered with the orderly administration of the litigation, and he, his  
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1 firm, and his clients, have unreasonably interfered with, delayed and burdened  
2 Passages in its effort to both prosecute its claims (now dismissed) and defend against  
3 the Counterclaims in this action.

4 7. The litigation between Passages and Accelerated Recovery Centers, LLC,  
5 (“Accelerated”), Case No. CV 09-8128 DMG (PLAx) (the “Accelerated Action”)  
6 (which was dismissed on December 3, 2010), involved the same Plaintiffs/Counter-  
7 Defendants (Passages) and the same counsel of record on both sides: my firm for  
8 Passages, and Doroshow and his firm for the different sets of Defendants/Counter-  
9 Claimants. The claims in the Complaint, and in the Counterclaim, were substantially  
10 similar except that they involved different Defendants/Counter-Claimants. During the  
11 Accelerated Action, **Doroshow stated to me on at least two occasions in 2010 that**  
12 **he intended to “expose” Passages by sending out a press release containing**  
13 **information about Passages that he obtained from the lawsuit, and that Passages’**  
14 **business would be destroyed or ruined from it, or words to that effect.** I included  
15 a statement about these threats in my Declaration of September 20, 2010 filed in the  
16 Accelerated Action. (Accelerated Dkt. #83-1, ¶ 7) A true copy of that prior  
17 Declaration is attached hereto as **Exhibit B**, with the relevant portions highlighted.

18 8. Doroshow took a deposition on August 23, 2010 in the Accelerated  
19 Action, of Pax Prentiss’s former nanny, Rana Ayzeren. A true copy of relevant  
20 portions of the Azyeren deposition transcript is attached hereto as **Exhibit C**.  
21 Specifically, Doroshow asked Ayzeren if she once saw Chris Prentiss in the backyard  
22 naked, and if he “had a condom on” and “had an erection,” among other such  
23 questions.

24 9. Ayzeren did not testify about any alleged attempted “rape.” However,  
25 Doroshow, during Ayzeren’s deposition, and in emails to Passages’ counsel before  
26 and after her deposition, and in papers filed with the Court, repeatedly accused Chris  
27 Prentiss of “attempted “rape.” Attached hereto as **Exhibit D** are true copies of some

1 of those statements by Doroshow. *See also*, Exhibit C hereto, the Azyeren deposition  
2 transcript, where Doroshow (not Ayzeren) made these accusations. Chris Prentiss  
3 vehemently denies the allegations by Doroshow. I have investigated and found no  
4 evidence that Ayzeren ever reported any such allegations to law enforcement of any  
5 kind, or to anyone else. I also am not aware of any evidence whatsoever of these  
6 supposed allegations.

7 10. In Exhibit C hereto (the Azyeren deposition transcript), Doroshow  
8 accuses Chris Prentiss of “rape,” and then asks the court reporter to prepare an  
9 expedited transcript of the deposition “for purposes of a press conference that will be  
10 conducted shortly.” (Accelerated Dkt #87-6, Page ID #2650, lines 2-16.) The  
11 obvious implication from the statement is that he would be appearing at a press  
12 conference to publicly make rape allegations against Chris Prentiss.

13 11. Chris Prentiss filed a Motion for Protective Order to terminate the  
14 deposition of Ayzeren. (Accelerated Dkt #87) Attached hereto as **Exhibits E, F, G,**  
15 **and H**, respectively, are the declarations of Chris Prentiss, Pax Prentiss, Charles  
16 Harder and Thomas Nitti (Mr. Prentiss’s separate attorney in that action), with the  
17 accompanying exhibits, filed in support of the motion for protective order, with  
18 relevant portions highlighted. These documents also can be found at Accelerated Dkt  
19 #87-1 through #87-6.

20 12. Magistrate Judge Paul Abrams granted Chris Prentiss’s motion for  
21 protective order on October 6, 2010, ordered the Ayzeren deposition terminated, and  
22 ordered Doroshow’s client, Accelerated, to pay \$2,450 in monetary sanctions.  
23 Attached hereto as **Exhibit I** is a true copy of that Order, which also can be found at  
24 Accelerated Dkt #97. Footnote 3 of that Order, which refers to the exhibits attached  
25 to the Declarations of Thomas Nitti and Charles Harder (Exhibits H and I hereto)  
26 regarding Doroshow’s conduct, states:



1 The conduct of counsel as evidenced by the exhibits to this  
2 Motion [Accelerated Dkt #87-6, Exhs. A-C] is an  
3 embarrassment to the profession, an insult to the Court, and  
4 a disservice to the clients in this action. The Court advises  
5 that if counsel are unable to control themselves when  
6 dealing with opposing counsel, they should have the good  
7 sense to remove themselves from this litigation.

8 13. At each of the four depositions in the Accelerated Action, and each of the  
9 *many* meet-and-confer conferences and other in-personal meetings in both the  
10 Accelerated Action and this action, Doroshow's behavior has been consistently rude,  
11 obnoxious, belligerent, caustic, abrasive, verbally abusive, threatening, demeaning and  
12 insulting. It would take a very long time for me to list each instance. Moreover, to  
13 experience his behavior live and in person, with the abusive tone that he uses, has a far  
14 greater impact than just describing it in written words. Also, the transcript shows only  
15 the times that we were *on the record*. When we were *off* the record, Doroshow  
16 usually was even more rude, obnoxious, abrasive, threatening, demeaning, etc. To  
17 provide a few examples of his *on the record* conduct, attached hereto as **Exhibit J** is  
18 true and correct copies of relevant excerpts from the transcript of the deposition of  
19 Chris Prentiss taken on July 20, 2010. Attendees including Chris Prentiss, his  
20 personal attorney Thomas Nitti, Chris's son Pax Prentiss, Doroshow, and myself.  
21 Page 98 of the transcript shows a point when I was making objections to Doroshow's  
22 questions and conduct for the record, and he made a gesture with his hand and mouth,  
23 simulating oral sex. My objection to that gesture, and his conduct, is on the record.  
24 (Exh. J, p. 98)

25 14. Doroshow's written communications in this action, in the form of letters,  
26 faxes and emails, likewise have been consistently rude and harassing. In one two-day  
27 period (September 27-28, 2010), Doroshow sent me twenty-three (23) emails. After  
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1 that, I informed him that I would no longer accept emails from his office, and he  
2 eventually agreed, though he did not observe our agreement and continued to send me  
3 harassing emails anyway. Attached hereto as **Exhibit K** are true copies of a small  
4 sampling of Doroshow's emails to me over the past year both in the Accelerated  
5 Action and this action.

6 15. On February 15, 2011, shortly before the mediation in this case began,  
7 the mediator introduced himself, and asked Doroshow to "say hello" to me.  
8 Doroshow immediately exclaimed *loudly* so that everyone in the reception area could  
9 hear: "I'm not going to talk to him, he's an *asshole!*" Doroshow then immediately  
10 stated (still referring to me): "He's a *schmuck!*" I did nothing to provoke the  
11 response. I had not even spoken to him or looked at him that day, or for several days,  
12 when he shouted these statements.

13 16. In this action, Renaissance has failed and refused to produce *any* of its  
14 documents. Therefore, on February 22, 2011, Passages filed a motion to compel  
15 Renaissance to produce its responsive documents. (Dkt #49.) The motion is pending  
16 before Magistrate Judge Chooljian, and scheduled for a hearing on March 15, 2011.

17 17. In this action, Passages noticed the depositions of several Renaissance  
18 witnesses. Renaissance has refused to produce *any* of its witnesses for deposition.  
19 Therefore, Passages has initiated a joint stipulation for a motion to compel  
20 Renaissance to produce its witnesses for deposition. That motion is scheduled for a  
21 hearing before Magistrate Judge Chooljian on March 29, 2011.

22 18. In the Accelerated Action, Doroshow did not produce a *single page* of his  
23 clients' documents, notwithstanding the requirements of both FRCP Rule 26(a) and  
24 Rule 34 to do so. Passages filed a Notice with this Court of Accelerated's failure to  
25 produce any of its documents, which requested that Accelerated be prohibited from  
26 introducing documents and certain other evidence at trial. (Accelerated Dkt. #98)  
27 Moreover, Passages filed a motion to compel production of Accelerated's documents,  
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1 which was granted on the eve of the discovery cutoff, and Magistrate Judge Abrams  
2 ordered Accelerated to produce all of its responsive documents by the discovery  
3 cutoff. (Accelerated Dkt. #114) The case settled the day after the Order compelling  
4 Accelerated to produce its documents. (Accelerated Dkt. #119)

5 19. Also in the Accelerated Action, Doroshow refused to produce his clients'  
6 witnesses for deposition. Passages was required to seek, and did obtain, an Order  
7 from Magistrate Judge Paul Abrams requiring Accelerated to produce its witnesses for  
8 deposition. (Accelerated Dkt. #104 and #111)

9 20. In this case, Renaissance/Doroshow's stated reasons for refusing to  
10 produce Renaissance's documents or witnesses is the contention that my firm should  
11 be "disqualified" because David Kaiser, who once worked for Renaissance, now  
12 works at Passages, and Doroshow claims that he supposedly had "attorney client  
13 communications" with Kaiser when he worked at Renaissance. However, it is my  
14 understanding, from having spoken to David Kaiser about this issue, that Mr. Kaiser  
15 stopped working for Renaissance in January 2010. This lawsuit was filed on April 28,  
16 2010 – *three months after* Kaiser had left Renaissance. (Dkt #1) Moreover, the  
17 Complaint in this action has been dismissed with prejudice. (Dkt #14) The  
18 Counterclaims (the only claims pending in this the action) were filed on June 7, 2010  
19 – *five months after* Kaiser had left Renaissance. (Dkt #14) It is my understanding,  
20 from having spoken to Mr. Kaiser, that he had *no communications* with Doroshow  
21 regarding either the Complaint or the Counterclaims, or any other matters pertinent to  
22 this lawsuit. Mr. Kaiser is willing to sign a Declaration to this effect, and it will be  
23 filed with the Court if and when necessary. The efforts by Doroshow to "disqualify"  
24 my firm appear to be more of the same bad faith litigation tactics that he has been  
25 practicing for the past year, and designed to prejudice Passages in its defense of  
26 Renaissance's Counterclaims, by preventing Passages from obtaining Renaissance's  
27 responsive documents and taking the depositions of its witnesses.



21. During the Accelerated Action, Doroshow and his client opposed Passages' motion to dismiss its own complaint, and filed a 25-page Opposition brief, and several supporting declarations. Doroshow's stated grounds for opposing the motion included the fact that Accelerated would lose its insurance coverage, and that Accelerated had pending counterclaims against Passages. (Accelerated Dkt #78 and #78-1.) Doroshow's Declaration states: "Accelerated is indemnified and defended in this case by its . . . insurance provider for the time period in question, Hanover Insurance group. This policy covers defense of Grasshopper's claims only; it does not pay for Accelerated's counterclaims." (Accelerated Dkt #78-1, ¶ 3.) A true copy of Doroshow's Declaration is attached hereto as **Exhibit L**, with the above-quoted statement highlighted. The obvious implication is that Doroshow was seeking to finance Accelerated's counterclaims with the insurance policy. About two weeks after the scheduled hearing date for that motion to dismiss the complaint, the case settled.

22. Attached hereto as **Exhibits M** and **N**, respectively, are true copies of news articles that I printed from the Internet, reporting on the individuals who were prosecuted for criminal extortion for making threats to "expose" David Letterman's extra-marital affairs if a seven-figure payment was not made, and, separately, threats to report Celine Dion's husband for "rape" if an eight-figure payment was not made. According to the articles, both sets of extortionists were sentenced to prison. Attached hereto as **Exhibit O** is a true and correct copy of a letter that I sent to counsel for Renaissance on February 28, 2011, via email, facsimile and U.S. mail, providing them notice of this *ex parte* application. I have not had any other communications with Renaissance's counsel regarding this application, and they have not communicated with me about their intent to oppose it.

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1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct. Executed on February 28, 2011 at  
3 Los Angeles, California.

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5 CHARLES J. HARDER  
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